

Terms and Conditions of Equipment Hire

These Terms and Conditions of Equipment Hire supersede any other agreement between the parties, unless otherwise agreed by Hall's Equipment Hire and the Customer in writing.

In consideration of the Customer paying the Hire Charge, Hall's Equipment Hire agrees to the Customer hiring the Equipment for the Hire Period on the terms and conditions set out herein, the Schedule, and any credit facility extended to the Customer by Hall's Equipment Hire. The Customer agrees to receive the said documents electronically.

Hall's Equipment Hire may in its absolute discretion decline to hire Equipment to the Customer at any time.

We will verify your identity as part of your application to hire any of our Equipment. This will usually be a government issued photo identification, *i.e. current driver licence or passport*. Copies of the identification will be kept as part of the records of the Equipment hire.

Information about the Customer shall be kept confidential and shall only be disclosed either by consent from the Customer or required by law including the enforcement of this agreement.

1 Payment

- (a) In consideration of Hall's Equipment Hire agreeing to the Customer hiring the Equipment, the Customer must pay the Hire Charge in full to Hall's Equipment Hire prior to the hiring of the Equipment.
- (b) Hall's Equipment Hire may, upon request by the Customer and in Hall's Equipment Hire's sole discretion, approve an application for the provision of financial accommodation to the Customer. The terms of such facility shall be on terms acceptable to Hall's Equipment Hire and will be in writing.
- (c) The Customer authorises Hall's Equipment Hire to debit any amounts owing by the Customer to a credit card issued in the Customers' name or the Customers' nominated account the details of which are provided by the Customer in writing and on bank letterhead.
- (d) Hall's equipment Hire may tokenise the Customer's credit card or account to facilitate credit card or online payments.

The following Additional Fees will be charged:

- (e) Late Hire fees will be charged to the Customer at the same rate/s as the Hire Charge for Equipment that is returned after the Hire Period.
- (f) Equipment that has four-stroke engines or motors and are returned empty or partially empty will incur a charge of \$2.00 per litre to fill the fuel tank.
- (g) All costs incurred in cleaning the Equipment.
- (h) The full cost to repair damage to the Equipment caused or contributed to by the Customer.
- (i) Any applicable stamp duties, GST, any other taxes, duties or imposts, and all tolls, fines, penalties, levies, or charges payable in respect of this agreement or arising from the Customer's use of the Equipment.
- (j) Reasonable costs, including legal costs, expenses, and disbursements incurred by Hall's Equipment Hire to enforce this agreement due to the Customers' default.
- (k) All costs to repair or replace any tires.
- (l) Any Additional Fees incurred must be paid by the Customer upon delivering up the Equipment to Hall's Equipment Hire after the Hire Period has ended.

2 Collection and return of equipment

- (a) Upon payment of the Hire Charge in full, the Equipment may then be removed from Hall's Equipment Hire premises by the Customer.
- (b) The Customer hires the Equipment as bailee only and accepts all risks of having the Equipment in their possession at all times until returned to Hall's Equipment Hire.
- (c) Prior to hiring the Equipment, the Customer acknowledges and agrees that they have:

- (i) Inspected the Equipment and satisfied themselves as to the condition of the Equipment.
- (ii) Ensure that all Equipment is safely loaded or secured in, on, or to their vehicle in transportation between Hall's Equipment Hire premises and the Customers premises.

Deliver-up and early return of equipment

- (d) The Customer must return the Equipment to Hall's Equipment Hire premises on or before the end of the Hire Period.
- (e) The Customer may discharge their obligation to return the Equipment under this agreement by returning the Equipment to Hall's Equipment Hire premises before the expiry of the Hire Period.
- (f) No part of the hire Charge paid by the Customer shall be refundable due to the early return of the Equipment by the Customer.

Late return of equipment

- (g) If the Equipment is not returned on time, then Hall's Equipment Hire may demand the return of the Equipment in writing and the Customer must deliver up the Equipment immediately upon 24-hours' written notice. In failing to comply with the notice, the Customer hereby consents to Hall's Equipment Hire, or any of its agents or employees, entering the Customer's premises and retaking possession of the Equipment, at the Customers' cost.
- (h) Written notice for the purpose of clause 2(g) may be sent by SMS text message to any mobile phone number provided by the Customer to Hall's Equipment Hire.
- (i) If the Equipment cannot be located at the Customers' premises, then the Customer shall be liable for cost of replacement Equipment on a 'like-for-like' basis and the costs shall be payable by the Customer immediately upon written demand by Hall's Equipment Hire.

3 Use of equipment

The Customer must:

- (a) Ensure that the Equipment is used for the purpose the Equipment is intended.
- (b) Use and keep the Equipment securely stored at the Customers' premises and not at any other premises.
- (c) Operate the Equipment in accordance with the manufacturer's instructions and any directions provided by Hall's Equipment Hire.
- (d) Ensure that all persons operating the Equipment are properly trained in its safe use and operation.
- (e) Ensure that all laws, regulations, permits, or licenses required for the operation of the Equipment are obtained and followed by all persons operating the Equipment.
- (f) Use all necessary safety equipment and personal protective equipment.
- (g) Immediately notify Hall's Equipment Hire of any breakdown or failure of the Equipment.
- (h) Be over the age of 21 years and hold a current full Driver's Licence of the appropriate class or category to hire a Vehicle.
- (i) Ensure that any Vehicle is not used for the carriage of persons or property for hire, fare, or reward.
- (j) Ensure that any Vehicle is driven by persons over the age of 21-years holding a current full Driver's Licence of the appropriate class or category and to whom insurance cover in relation to a motor vehicle has not at any time been refused and that the Vehicle is not misused, abused, or driven when it is damaged or unsafe.
- (k) Ensure that no person driving a Vehicle fails to take any blood analysis or breath test or test for any illegal drug or dependence requested by the police or other relevant authority.

The Customer must NOT:

- (l) Tamper with, damage, repair, or modify the Equipment, or allow any third party to tamper, damage, repair or modify the equipment, in any way.
- (m) Remove any property plates affixed to the Equipment or remove or tamper with any of the details identifying the Equipment or any of its' parts.
- (n) Remove any on-Board data devices.
- (o) Lose or part with possession of the Equipment at any time.

- (p) Use two-stroke fuel other than that provided by Hall's Equipment Hire for those items of equipment that have two-stroke engines or motors.
- (q) Allow a Vehicle to be loaded in a manner where the load exceeds the maximum load of the Vehicle specified by the manufacturer.
- (r) Allow a Vehicle to be operated by a person under the influence of alcohol so as to have a blood alcohol content exceeding the legal limit in the state or territory in which the Vehicle is then being driven.

4 Indemnity

- (a) All guarantees, terms, conditions, warranties, undertakings whether express or implied, statutory or otherwise, relating to the subject-matter or this agreement and the arrangements generally between the parties are excluded to the extent permitted by law and if not permitted then the liability of Hall's Equipment Hire for a breach of a guarantee, term, condition, warranty or undertaking that may not be contracted out of is limited to the repair and replacement of Equipment or the supply of substitute Equipment (or the cost of doing so).
- (b) The liability of Hall's Equipment Hire to the Customer for all claims under or relating to this agreement or its' subject matter, whether in contract, tort, equity, statute or under an indemnity is limited to:
 - (i) The Hire Charge paid by the Customer under this agreement less provision for the cost of the repair and replacement of Equipment or the supply of substitute Equipment.
 - (ii) The Customer shall not claim for any consequential, indirect loss or damage, loss of actual or anticipated profits or revenue, loss of business, business interruption, wasted costs incurred, employment costs however described or any amount that the Customer may be liable to third parties, regardless of whether those losses are foreseeable or notified to Hall's Equipment Hire.
- (c) The Customer shall indemnify and keep indemnified, Hall's Equipment Hire against all liability, claims, damage, loss, costs, and expenses including solicitor / client costs relating to:
 - (i) Personal injury.
 - (ii) Damage or loss to property.
 - (iii) Claims by third parties in respect of the hire of the equipment or the Customer's breach or default of this Hire Agreement.
- (d) Each indemnity is a continuing and separate obligation and survives termination, completion, and expiration of this agreement.

5 Theft or damages waiver

- (a) If the Customer signs the Theft or Damages Waiver on the front of this form, has provided Hall's equipment Hire with a written Police Report, and the Customer has paid Hall's Equipment Hire an amount being the greater of \$75.00 per item of Equipment or 5% of the 'as-new' list price for the Equipment hired (and no demand shall be necessary), then Hall's Equipment Hire agrees to waive it's right to claim for Loss or Damage to the Equipment cause by fire, storm, collision, accident, theft or burglary.
- (b) Loss or damage to the Equipment resulting from the following is expressly excluded from the waiver:
 - (i) Failure by the Customer to take adequate precautions to safeguard the Equipment
 - (ii) Misuse, abuse or overloading of the Equipment.
 - (iii) Mysterious disappearance or wrongful conversion of the Equipment.
 - (iv) Contravention of this agreement.
 - (v) Use of the Equipment in violation of any statutory laws or regulations.
 - (vi) Loss of tools, accessories, grease guns, hoses and similar, electric cords, welding cable, pneumatic tool steels and other similar accessories.
 - (vii) Loss or damage to tyres and tubes by blowout, bruises, cuts, or other causes inherent in its use.
 - (viii) Lack of lubrication or other normal service.
 - (ix) While in use or while being carried over water.
 - (x) Loss or damage to motors or other electrical appliances or devices caused by the overloading or artificial electrical current including use or under rated extension leads of electrical power tools and machines.

6 Fines and traffic infringements

- (a) The Customer must pay Hall's Equipment Hire for any and all demands, claims, suits, actions, damages, liabilities, losses, costs, and expenses which may be made or brought against or suffered or incurred by Hall's Equipment Hire in respect of:
 - (i) a Traffic Infringement or as a direct or indirect result of any claim made or purported to be made in respect of a Traffic Infringement; and
 - (ii) any Fine issued by a Federal, State or Local authority.
- (b) The Customer must pay to Hall's Equipment Hire immediately on demand any amounts due to Hall's Equipment Hire.
- (c) The Customer irrevocably authorises Hall's Equipment Hire to nominate the Customer as the person in possession or control of the Vehicle subject to a Traffic Infringement during the Hire Period without further notice and the Customer agrees not to dispute any nomination in respect of a Traffic Infringement.

7 Title to equipment

- (a) The Customer acknowledges that Hall's Equipment Hire retains title to the Equipment and that the Customer has rights to possess the goods as bailee only.
- (b) The Customer does not have any right to pledge Hall's Equipment Hire's credit in connection with the Equipment and agrees not to do so.
- (c) The Customer also agrees not to agree, attempt, offer or purport to sell, assign, sub-let, lend, pledge, mortgage let on hire or otherwise part with or attempt to part with the personal possession session of or otherwise deal with the Equipment.

8 Data equipment

- (a) The Equipment may contain, or have affixed thereto, on-board devices (such as a GPS device) which allows the on-board device to connect to the internet and to send and receive commands or information including geolocation data from a global positioning system and other data including speed, battery voltage and ignition status of such equipment.
- (b) By hiring the Equipment affixed with on-board devices described above, the Customer consents to Hall's Equipment Hire using the on-board device during the Hire Period and to Hall's Equipment Hire collecting, using, and retaining the information collected from the device and that hall's Equipment Hire is the owner of that data subject to any privacy rights at law.

9 Breach by customer

- (a) If the Customer breaches any term of this agreement and fails to remedy the breach within seven days, or becomes bankrupt, insolvent, or ceases business (as the case may be) then Hall's Equipment Hire may, at its sole discretion, terminate this agreement, sue for recovery of all moneys owing, or repossess the equipment.
- (b) The Customer hereby further indemnifies Hall's Equipment Hire in respect of any loss, damage, and costs caused or contributed by the Customer from breaching this agreement.

10 Definitions and interpretation

In this agreement:

Additional Fees means the fees described in clauses 1(e)-(i) of these conditions.

Customer means individual or entity detailed on the front of this form, who has signed this agreement.

Driver's Licence means a full motor vehicle driver's licence issued by an Australian State, Federal or Territory government or an overseas driver's licence recognised within Australia and excludes provisional licences and learners permits.

Equipment means the item described on the front of this form and any replacement for that item and also includes all accessories and parts to that item.

GST has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Hall's Equipment Hire means Anndoc Pty Ltd ACN 137 828 632 trading as 'Hall's Equipment Hire' of 637 Fifteenth Street, Mildura, Victoria 3500.

Hire Charge means the hourly/daily rate, administration expenses, plus any GST as set out on the front of this form charged in relation to the hire of the Equipment.

Hire Period means the period beginning on the date and time set out on the front of this form as the commencement date and time and ending on the date and time set out on the front of this form as the expiry date.

Theft or Damages Waiver means the waiver checkbox on the front of this form referred to in clause 7 of these conditions.

Traffic Infringement means any parking fine, speeding fine, infringement notice or other penalty imposed under Federal or State / Territory Laws issued in relation to the Equipment during the Hire Period, whether served as an on-the-spot infringement, summons or indictment.

Vehicle means Equipment that is deemed a registered motor vehicle, including trailers and tipper trucks.

In the interpretation of this agreement:

- (a) References to legislation or provisions of legislation include changes or re-enactments of the legislation and statutory instruments and regulations issued under the legislation.
- (b) Words denoting the singular include the plural and vice versa, words denoting individuals or persons include bodies corporate and vice versa, words denoting one gender include all genders and references to documents or agreements also mean those documents or agreements as changed, novated, or replaced, and words denoting one gender include all genders.
- (c) Grammatical forms of defined words or phrases have corresponding meanings.
- (d) 'Includes' and 'including' are not terms of limitation nor intended to create exhaustive lists.
- (e) Parties must perform their obligations on the dates and times fixed by reference to the capital city of Victoria.
- (f) Reference to an amount of money is a reference to the amount in the lawful currency of the Commonwealth of Australia.
- (g) If the day on or by which anything is to be done, then it must be done on the next business day.
- (h) Obligations under this deed affecting more than one party bind them jointly and each of them severally.
- (i) If any term or phrase of this agreement is vague, ambiguous, or arbitrary, then to clarify, or remedy the ambiguity or arbitrariness of the term or phrase, the parties agree to not interpreting or construing the term or phrase against a party by reason of that party having drafted this agreement.

11 Governing law

This agreement will be governed by the laws in force in the State of Victoria from time to time and the parties agree to referring any disputes or matters arising pursuant to this agreement to Courts or Tribunals exercising jurisdiction in that State.